

AMENDED IN ASSEMBLY MARCH 17, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 2301

Introduced by Assembly Member Chu

February 18, 2016

An act to amend Section 1569.269 of the Health and Safety Code, relating to residential care facilities for the elderly.

LEGISLATIVE COUNSEL'S DIGEST

AB 2301, as amended, Chu. Residential care facilities for the elderly: resident rights.

Existing law, the California Residential Care Facilities for the Elderly Act, provides for the licensure of residential care facilities for the elderly by the State Department of Social Services. Existing law establishes rights for residents of residential care facilities for the elderly, including ~~the right to be granted a reasonable level of personal privacy and the right to be accorded dignity in their personal relationships with staff, residents, and other persons. the right to contact the department or the long-term care ombudsman, or both, regarding grievances. Existing law requires a licensee to post the telephone numbers and addresses of the local offices of the department and the ombudsman program conspicuously in the facility foyer, lobby, residents' activity room, or other location easily accessible to residents. Violation of these provisions is a crime.~~

~~This bill would make technical, nonsubstantive changes to these provisions.~~ *also require the licensee to post the telephone number and address of the local law enforcement agency in the same manner. By creating a new crime, this bill would impose a state-mandated local program.*

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.
State-mandated local program: ~~no~~-yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 1569.269 of the Health and Safety Code
2 is amended to read:
3 1569.269. (a) Residents of residential care facilities for the
4 elderly shall have all of the following rights:
5 (1) To be accorded dignity in their personal relationships with
6 staff, residents, and other persons.
7 (2) To be granted a reasonable level of personal privacy in
8 accommodations, medical treatment, personal care and assistance,
9 visits, communications, telephone conversations, use of the
10 Internet, and meetings of resident and family groups.
11 (3) To confidential treatment of their records and personal
12 information and to approve their release, except as authorized by
13 law.
14 (4) To be encouraged and assisted in exercising their rights as
15 citizens and as residents of the facility. Residents shall be free
16 from interference, coercion, discrimination, and retaliation in
17 exercising their rights.
18 (5) To be accorded safe, healthful, and comfortable
19 accommodations, furnishings, and equipment.
20 (6) To care, supervision, and services that meet their individual
21 needs and are delivered by staff that are sufficient in numbers,
22 qualifications, and competency to meet their needs.
23 (7) To be served food of the quality and in the quantity necessary
24 to meet their nutritional needs.
25 (8) To make choices concerning their daily life in the facility.
26 (9) To fully participate in planning their care, including the right
27 to attend and participate in meetings or communications regarding
28 the care and services to be provided in accordance with Section
29 1569.80, and to involve persons of their choice in the planning

1 process. The licensee shall provide necessary information and
2 support to ensure that residents direct the process to the maximum
3 extent possible, and are enabled to make informed decisions and
4 choices.

5 (10) To be free from neglect, financial exploitation, involuntary
6 seclusion, punishment, humiliation, intimidation, and verbal,
7 mental, physical, or sexual abuse.

8 (11) To present grievances and recommend changes in policies,
9 procedures, and services to the staff of the facility, the facility's
10 management and governing authority, and to any other person
11 without restraint, coercion, discrimination, reprisal, or other
12 retaliatory actions. The licensee shall take prompt actions to
13 respond to residents' grievances.

14 (12) To contact the State Department of Social Services, the
15 long-term care ombudsman, or both, regarding grievances against
16 the licensee. The licensee shall post the telephone numbers and
17 addresses for the local offices of the State Department of Social
18 ~~Services and Services~~, the ombudsman program, in accordance
19 with Section 9718 of the Welfare and Institutions Code, *and the*
20 *local law enforcement agency* conspicuously in the facility foyer,
21 lobby, residents' activity room, or other location easily accessible
22 to residents.

23 (13) To be fully informed, as evidenced by the resident's written
24 acknowledgment, prior to or at the time of admission, of all rules
25 governing residents' conduct and responsibilities. In accordance
26 with Section 1569.885, all rules established by a licensee shall be
27 reasonable and shall not violate rights set forth in this chapter or
28 in other applicable laws or regulations.

29 (14) To receive in the admission agreement a comprehensive
30 description of the method for evaluating residents' service needs
31 and the fee schedule for the items and services provided, and to
32 receive written notice of any rate increases pursuant to Sections
33 1569.655 and 1569.884.

34 (15) To be informed, in writing, at or before the time of
35 admission of any resident retention limitations set by the state or
36 licensee, including limitations or restrictions on the licensee's
37 ability to meet residents' needs.

38 (16) To reasonable accommodation of individual needs and
39 preferences in all aspects of life in the facility, except when the

1 health or safety of the individual or other residents would be
2 endangered.

3 (17) To reasonable accommodation of resident preferences
4 concerning room and roommate choices.

5 (18) To written notice of room changes at least 30 days in
6 advance unless the request for a change is agreed to by the resident,
7 required to fill a vacant bed, or necessary due to an emergency.

8 (19) To share a room with the resident's spouse, domestic
9 partner, or a person of resident's choice when both spouses,
10 partners, or residents live in the same facility and consent to the
11 arrangement.

12 (20) To select their own physicians, pharmacies, privately paid
13 personal assistants, hospice agency, and health care providers, in
14 a manner that is consistent with the resident's contract of admission
15 or other rules of the facility, and in accordance with this act.

16 (21) To have prompt access to review all of their records and
17 to purchase photocopies. Photocopied records shall be promptly
18 provided, not to exceed two business days, at a cost not to exceed
19 the community standard for photocopies.

20 (22) To be protected from involuntary transfers, discharges, and
21 evictions in violation of state laws and regulations. Facilities shall
22 not involuntarily transfer or evict residents for grounds other than
23 those specifically enumerated under state law or regulations, and
24 shall comply with enumerated eviction and relocation protections
25 for residents. For purposes of this paragraph, "involuntary" means
26 a transfer, discharge, or eviction that is initiated by the licensee,
27 not by the resident.

28 (23) To move from a facility.

29 (24) To consent to have relatives and other individuals of the
30 resident's choosing visit during reasonable hours, privately and
31 without prior notice.

32 (25) To receive written information on the right to establish an
33 advanced health care directive and, pursuant to Section 1569.156,
34 the licensee's written policies on honoring those directives.

35 (26) To be encouraged to maintain and develop their fullest
36 potential for independent living through participation in activities
37 that are designed and implemented for this purpose, in accordance
38 with Section 87219 of Title 22 of the California Code of
39 Regulations.

1 (27) To organize and participate in a resident council that is
2 established pursuant to Section 1569.157.

3 (28) To protection of their property from theft or loss in
4 accordance with Sections 1569.152, 1569.153, and 1569.154.

5 (29) To manage their financial affairs. A licensee shall not
6 require residents to deposit their personal funds with the licensee.
7 Except as provided in approved continuing care agreements, a
8 licensee, or a spouse, domestic partner, relative, or employee of a
9 licensee, shall not do any of the following:

10 (A) Accept appointment as a guardian or conservator of the
11 person or estate of a resident.

12 (B) Become or act as a representative payee for any payments
13 made to a resident, without the written and documented consent
14 of the resident or the resident's representative.

15 (C) Serve as an agent for a resident under a general or special
16 power of attorney.

17 (D) Become or act as a joint tenant on an account with a resident.

18 (E) Enter into a loan or promissory agreement or otherwise
19 borrow money from a resident without a notarized written
20 agreement outlining the terms of the repayment being given to the
21 resident.

22 (30) To keep, have access to, and use their own personal
23 possessions, including toilet articles, and to keep and be allowed
24 to spend their own money, unless limited by statute or regulation.

25 (b) A licensed residential care facility for the elderly shall not
26 discriminate against a person seeking admission or a resident based
27 on sex, race, color, religion, national origin, marital status,
28 registered domestic partner status, ancestry, actual or perceived
29 sexual orientation, or actual or perceived gender identity.

30 (c) No provision of a contract of admission, including all
31 documents that a resident or his or her representative is required
32 to sign as part of the contract for, or as a condition of, admission
33 to a residential care facility for the elderly, shall require that a
34 resident waive benefits or rights to which he or she is entitled under
35 this chapter or provided by federal or other state law or regulation.

36 (d) Residents' family members, friends, and representatives
37 have the right to organize and participate in a family council that
38 is established pursuant to Section 1569.158.

39 (e) The rights specified in this section shall be in addition to
40 any other rights provided by law.

1 (f) The provisions of this section are severable. If any provision
2 of this section or its application is held invalid, that invalidity shall
3 not affect other provisions or applications that can be given effect
4 without the invalid provision or application.

5 *SEC. 2. No reimbursement is required by this act pursuant to*
6 *Section 6 of Article XIII B of the California Constitution because*
7 *the only costs that may be incurred by a local agency or school*
8 *district will be incurred because this act creates a new crime or*
9 *infraction, eliminates a crime or infraction, or changes the penalty*
10 *for a crime or infraction, within the meaning of Section 17556 of*
11 *the Government Code, or changes the definition of a crime within*
12 *the meaning of Section 6 of Article XIII B of the California*
13 *Constitution.*